

REMARKS

This amendment is being filed in response to the Final Office Action mailed June 30, 2004. A Notice of Appeal accompanies this Amendment. Reconsideration of this application is respectfully requested in view of the above amendments and further in view of the following remarks.

First, with respect to the objection made to the specification, applicants point out that the guidelines illustrate only the "preferred layout for the specification". This layout is not "required" as indicated in the action. Applicants believe that arbitrarily inserting headings into the text will not provide any clarity. Accordingly, applicants have not amended the specification as suggested since this is not required. Withdrawal of the objection is requested.

Turning to the rejections, applicants note that claims 1-4, 13 and 17 were once again rejected under 35 USC §102(b) as being anticipated by US Patent No. 3976223 ("Jass et al."). Applicants respectfully traverse this rejection.

According to the rejection, Jass et al. disclose an aerosol container containing a gel; the aerosol is provided by mechanical stream break up features and, according to the rejection, is therefore self-sealing; and the aerosol is not a single dose container as *implied* (emphasis added) by the effort made to avoid contamination of the contents during use.

However, the purpose of the package of Jass et al. is to separately store a plurality of flowable substances in a single package from which such substances may be dispensed. According to Jass et al., only the lower chamber of the outer container is pressurized with a gas through a self-sealing plug in the container bottom. See, e.g., column 2, lines 53-57. With respect to some implication read into Jass et al., applicants submit that Jass et al. does not address the avoidance of contamination during use. Rather, the avoidance of contamination appears to be with respect to storage. See, e.g., column 5, lines 23-32 and column 6, lines 8-13.

In response to these arguments, the rejection asserts that the aerosol container in Jass et al. is self-sealing, citing col.4, line 27; that avoidance of contamination during use is not recited in the rejected claims; and that the feature where only the lower part is pressurized is not recited in the rejected claims. However, col. 4, line 27, again relates only to the lower chamber of the outer container of Jass et al. Consequently, the container in Jass et al. is not self-sealing as required in the rejected claims. Moreover, that the feature regarding the lower part is pressurized is not in the rejected claims is correct. That is not a requirement of the instant invention, but rather it is a distinguishing feature required of the container in Jass et al.

For at least these reasons, applicants submit that the basis for the rejection is without merit. Accordingly, the rejection should be withdrawn.

Claims 5, 6, 10, 14, 15 and 18 were rejected under 35 USC §103 as being unpatentable over Jass et al. in view of EP 666 081 ('081). Applicants respectfully traverse this rejection.

Once again, applicants submit that there appears to be a basic misunderstanding of the invention. The invention is not simply substituting one *liquid* in any aerosol device for another. The focus of the invention in Jass et al. is to separately store a plurality of flowable substances in a single package from which such substances may be dispensed. Since that is the focus of the invention, there is no reason other than hindsight to substitute the composition of the '081 document for the composition of Jass et al.

Further, while the composition in the '081 document is a gel, the '081 document does not provide that which is missing in Jass et al. as noted above.

Moreover, the rejection indicates that the features upon which applicants rely (i.e., storage of a plurality of flowable substances in a single package) are not recited in the rejected claim(s). That is correct. This feature is not a requirement of the instant invention, but rather it is a distinguishing feature required of the container in Jass et al.

For at least these reasons, applicants submit that the claimed invention is patentable over the cited art, and they request that this rejection be withdrawn.

Finally, claims 8, 9, 19 and 20 were rejected under 35 USC §103 as being unpatentable over US Patent No. 5059187 ("Sperry et al.") in view of Jass et al. Applicants respectfully traverse this rejection as well.

Essentially, according to the rejection, Sperry et al. teach an aerosol container and a method for cleaning the wound as claimed in the instant application. Applicants strenuously disagree. In fact, Sperry et al. teach away from the present invention in at least two important ways. First, Sperry et al. do not teach or suggest a dispensing vehicle that contains multiple doses of wound-treating material. Instead, Sperry et al. teach away from a multiple dose container stating that "the container and method ... [is such that] the container contains enough wound cleaning solution to irrigate the average wound or abrasion." (See col. 1, lines 52-56.) Thus, although the contents of the container in Sperry et al. can be sterilized, Sperry et al. do not disclose a dispensing device that can contain more than a single dose of wound-treating material. Thus, nothing in Sperry et al. suggests a wound gel dispenser capable of dispensing multiple doses while keeping the wound gel contents reasonably free of contaminants.

The rejection notes that the feature upon which applicants rely (*i.e.*, aerosol containing multiple doses) is not recited in the rejected claims. The feature was recited in claim 19 (through its dependency) and claim 20. It has been added to claims 8 and 9 by this amendment.

A second way in which Sperry et al. teach away from the present invention is in the fact that Sperry et al. disclose a method of dispensing liquid, not gel, to a wound. This method lacks the complicating factors of dispensing a gel that is in gel-form within the container.

Further, Sperry et al. do not make up for the deficiencies of Jass et al. as noted above. For at least these reasons, applicants request that this rejection be withdrawn.

In view of the foregoing, entry of this amendment, reconsideration of this application, withdrawal of the objections and rejections, and allowance with all the pending claims is respectfully requested.

Respectfully submitted,

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